

**DEPARTMENT OF THE TREASURY
U.S. Customs Service**

**Modification of National Customs Automation Program
Test Regarding Reconciliation**

Agency: Customs Service, Treasury.

Action: General notice.

SUMMARY: This document announces several changes to the Customs Automated Commercial System (ACS) Reconciliation prototype test. They include a reduction of data required for “no-change” Aggregate Reconciliation entries, a new fee-for-service procedure for requesting reports of flagged entries, a modification of the liquidated damages provision, and a new diskette labeling procedure. In addition, the document discusses the continued use of the midpoint interest calculation for Aggregate Reconciliations. Other aspects of the prototype test not affected by the changes announced in this document remain the same.

DATES: The two year prototype testing period commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in the prototype will be accepted throughout the duration of the test. The modification of the test’s liquidated damages provision and the new diskette labeling procedure set forth in this document are effective on March 13, 2001. The effective date relative to the test’s reduced data requirement for no-change

Aggregate Reconciliation entries and the fee-for-service procedure for flagged entry reports will be announced soon after publication of this document via an Automated Broker Interface (ABI) administrative message.

ADDRESSES: Written inquiries regarding participation in the prototype test should be addressed to Mr. John Leonard, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave. NW, Room 5.2A, Washington, D.C. 20229-0001.

FOR FURTHER INFORMATION CONTACT: Mr. John Leonard at (202) 927-0915 or Ms. Sandra Chilcoat at (202) 927-0032.

SUPPLEMENTARY INFORMATION:

Background

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Pub. L. 103-182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by Customs under the Customs Automated Commercial System (ACS) Prototype Test (also referred to as the prototype, test, or prototype test). Customs announced and explained the prototype test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998, which replaced all previous notices. Clarifications and operational changes were announced in three subsequent **Federal Register** notices published on August 18, 1998 (63 FR 44303), July 21, 1999 (63 FR 39187), and December 29, 1999 (64 FR 73121). A **Federal Register** (65 FR 55326) notice published on

September 13, 2000, extended the prototype indefinitely. For application requirements, see 63 FR 6257 and 63 FR 44303. Additional information regarding the prototype can be found at <http://www.customs.gov/recon>.

This document announces additional changes to the prototype. Except for these modifications, all other aspects of the prototype remain the same.

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to Customs and to provide that outstanding information at a later date. The importer identifies the outstanding information by means of an electronic “flag” which is placed on the entry summary at the time the entry summary is filed and payment is made. The kinds of information for which an entry summary may be “flagged” (for the purpose of later reconciliation) are limited and relate to: (1) value issues; (2) classification issues, on a limited basis; (3) “9802 issues,” those concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS)); and (4) NAFTA issues, those concerning merchandise entered under the North American Free Trade Agreement (NAFTA). The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. (See the February 6, 1998, **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

Aggregate Reconciliation Entries and Reduced Data Requirements for No-Change Aggregate Reconciliation Entries

Aggregate Reconciliations Generally

The **Federal Register** notice published on February 6, 1998, set forth the two kinds of Reconciliation entries: (1) An Aggregate Reconciliation entry (or Aggregate Reconciliation) contains a list of the underlying entry summaries affected and the aggregate revenue adjustment relative to those underlying entry summaries; (2) the Entry-by-Entry Reconciliation entry (or Entry-by-Entry Reconciliation) shows the individual revenue adjustment for each underlying entry summary covered. In addition, that notice set forth that an Aggregate Reconciliation applies only to entry summaries showing either an increase (upward adjustment) or no change in duties, taxes, and fees. An Entry-by-Entry Reconciliation may include entry summaries that show a decrease (downward adjustment) in the amount of duties, taxes, and fees owed.

The **Federal Register** notice published on August 18, 1998, discussed the components of Aggregate Reconciliations (the Header, Association File, and Summarized Line Data Spreadsheet; the same as for Entry-by Entry Reconciliations) and provided that in cases where a Reconciliation entry is filed with no adjustments to value or other reconcilable issues - that is, merely to satisfy the obligation to file a Reconciliation entry after entry summaries had been flagged, the spreadsheet need not be provided. Importers were cautioned to be mindful of the distinction between true “no-change” Reconciliations (no adjustments) and Reconciliations where there are adjustments but no revenue implications. In the latter case, a spreadsheet is required.

The **Federal Register** notice published on July 21, 1999, provided importers the option to report entry summaries with a downward adjustment in duties, taxes, and fees through an Aggregate Reconciliation. These entry summaries must be listed separately from the upward adjusted and no- change entry summaries reported and must be accompanied by a certification that, among other things, waives any claims for refunds relative to these downward adjusted entry summaries.

Current Data Requirement for No-Change Reconciliations

A “no-change Reconciliation” is a Reconciliation entry covering only flagged entry summaries that do not show a change or adjustment at the time of Reconciliation (the filing of the Reconciliation entry). This kind of Reconciliation may be filed using either the Aggregate or Entry-by-Entry method. Which method to use for this specific type of Reconciliation depends entirely on the importer’s preference and/or software capabilities. These Reconciliations serve merely to “close out” flags on entries that were later found to require no adjustments at the time of Reconciliation. As noted above, no spreadsheet is required for this type of Reconciliation. Importers, however, must still provide information regarding the original duties, taxes, and fees paid on the underlying entry summaries covered in the Reconciliation when they transmit their Header and Association File via ABI. The Aggregate Reconciliation requires only the aggregate amount of original duties, taxes, and fees paid on the underlying entry summaries covered in the Aggregate Reconciliation entry, while the Entry-by-Entry

Reconciliation must show the original amount of duties, taxes, and fees for each individual entry summary covered.

New Reduced Data Requirement for No-Change Aggregate Reconciliations

In order to further simplify the Reconciliation process, Customs will allow importers filing no-change Reconciliations by the Aggregate Reconciliation method to file the Reconciliation entry without the original duty, tax, and fee information. This document announces this modification to the prototype.

These no-change Aggregate Reconciliations, by definition, cannot include entry summaries showing upward or downward adjustments. Importers who wish to take advantage of this option must transmit zeros in the money fields for this type of Reconciliation. Transmission of the Association File is still required. This change will eliminate the redundancy of providing information that has been reported previously to Customs (on the flagged entry summary). It also will eliminate the expenditure of time and effort (by Customs and the trade) required to reconcile instances of disparity between filer (importer or its broker) information and Customs information on no-change Reconciliation entries. Customs believes that this change will greatly improve the prototype.

Customs emphasizes that this reduced data option is available only for no-change Reconciliations filed via the Aggregate Reconciliation method. ACS is not programmed to accept this type of reduced data, no-change Reconciliation via the Entry-by-Entry Reconciliation method. Therefore, no-change Entry-by-Entry Reconciliations must include the original duty, tax, and fee information for each entry summary covered.

The choice to use the Entry-by-Entry or Aggregate method to report no-change Reconciliations remains at the importer's discretion; however, no-change Reconciliations reported via the Aggregate method must be transmitted as described in this document (zeros in the money fields). Customs strongly encourages importers to take advantage of this streamlined method. ACS is expected to be ready to accept the reduced data, no-change Aggregate Reconciliation entries in February 2001. The exact date will be announced via an ABI administrative message.

Fee-for-Service Procedure for Requesting Reports of Flagged Entries

The tracking and timely reconciliation of flagged entry summaries is the responsibility of the importer (and filer/broker). To assist the importer in this regard, Customs has been providing importers with reports of their flagged entries upon request. Additionally, Customs has been providing importers with monthly reports of flagged entries coming due during the following month (known as the "Heads-Up Report"). However, due to workload considerations, continued issuance of these flagged entry reports has become unsustainable.

Because Customs believes that a centralized, efficient clearinghouse for providing flagged entry reports is beneficial to both Customs and the Trade, it proposed an Internet-based lookup system in the December 29, 1999, **Federal Register**. This system was not developed but has been replaced with a fee-for-service procedure to be handled by Customs Accounting Services Division in Indianapolis, IN. Thus, this document announces the fee-for-service report procedure as a modification to the prototype. Customs believes that the

announced fee-for-service procedure will be more efficient and provide a better product than in the past. Additionally, Customs will be properly reimbursed for manpower and computer time spent downloading and compiling these reports.

The new fee-for-service flagged entry reports are extensions of two reports Customs already provides: the Masterfile Extract and the Liquidation Extract. The Masterfile Extract reports all open bills and unliquidated formal entries. The Liquidation Extract reports all liquidated entries during a given fiscal year. Under the test, both reports will provide, among other things, dates of entry and entry summary; total duties, taxes, and fees paid on a given entry; whether the entry was flagged for reconciliation; and the particular issue or issues for which the entry was flagged (Value, Classification, 9802, NAFTA or a combination of these). Listed entries which do not reflect any flag data either were never flagged or the flags were already closed out on a previously submitted Reconciliation. Since flagged underlying entry summaries for a certain period may be liquidated or unliquidated, importers are encouraged to request both reports to maintain complete records.

Customs expects to be ready to issue these reports with Reconciliation information in February 2001. The exact date will be announced via an ABI administrative message. In the interim, the Reconciliation team will continue to provide the flagged entry reports upon request. When the fee-for-service report system becomes operational, the free reports currently provided by the Reconciliation team, including the "Heads-Up Report," will cease to be issued.

As stated before, the Masterfile Extract will list all open bills and all unliquidated formal entries, and the Liquidation Extract will list all liquidated entries for a given importer number during a given fiscal year (October 1 - September 30). Under the new procedure, requests for reports must be in writing on company letterhead and include payment for processing fees. They also must specify the Importer of Record Number (the IRS number).

The fees for Master File Extracts are as follows: \$150 for the first importer number; \$50 for the second importer number; and \$25 for each additional importer number.

The pricing for the Liquidation Extract is separate from the Master File Extract and is as follows: \$200 for the first importer number for a given fiscal year, plus \$50 for each additional fiscal year requested for that importer number; \$100 for the second importer number for a given fiscal year, plus \$50 for each additional fiscal year requested for that importer number; and \$75 for each additional importer number for a given fiscal year, plus \$50 for each additional fiscal year requested relative to those importer numbers.

In addition to requesting reports in letter form, importers can request that Customs furnish a report via computer diskette. If the importer requests that Customs furnish the report on both computer diskette and paper, an additional fee of \$50 will be charged. The written request, with payment in the form of a check made payable to the U.S. Customs Service, should be mailed to: U.S. Customs Service, Accounting Services Division, ATTN: Collections Section, 6026 Lakeside Blvd., Indianapolis, IN 46278. Each request requires approximately

one week from receipt to process. If further information or assistance is needed to determine charges, please contact Debbie Wolfley at (317) 298-1200, extension 1363.

Modification of the Liquidated Damages Provision

The liquidated damages process for non-filed and late-filed Reconciliation entries was announced in the December 29, 1999, **Federal Register** notice. This document announces a modification of the liquidated damages and mitigation guidelines for non-filed and late-filed Reconciliations.

The guidelines set forth the assessed liquidated damages amounts for each violation type and provide a mitigation amount for each violation, described as the "Option 1" amount. An importer may agree to pay the lower Option 1 amount and waive the right to further mitigate the claim below that amount. There are five types of liquidated damages violations under the prototype guidelines: (1) Reconciliation No File; (2) Reconciliation Money No File; (3) Reconciliation Late File; (4) Reconciliation Money Late File; and (5) Reconciliation Late File With Money No File. The new guidelines set forth their descriptions, assessed liquidated damages amounts, and "Option 1" amounts.

For administrative convenience, Customs has decided to drop the interest calculation (total duties, taxes, fees, and interest, if applicable, due on Reconciliation x number of days late x 0.1%) set forth in the December 29, 1999, **Federal Register** notice as a component of the Option 1 amount. Instead, the Option 1 amount under the new guidelines will be a flat amount (\$100 per entry to a maximum of \$500) based on the number of entries filed late. No relief will be

afforded until all entries identified on a “Notice of Penalty or Liquidated Damages” form (CF-5955A) issued to the importer by Customs are reconciled. These new Option 1 amounts are effective on the date this document is published in the **Federal Register**. All other aspects of the liquidated damages process announced in the December 29, 1999, notice remain the same.

New Liquidated Damages Guidelines

1. Reconciliation No File

Description: Entry summaries flagged but no Reconciliation filed.

Customs will issue a single consolidated liquidated damages claim for all entries fitting this description for a given importer, per month, per surety.

Assessed Liquidated Damages Amount: Total entered value of the underlying entry(ies).

Option 1 Amount: The filing of the Reconciliation entry (or entries) covering the flagged entry summaries listed on the consolidated liquidated damages claim (CF 5955A), with all applicable duties, taxes, fees, and interest owed, will be treated as a petition for relief. Payment of the Option 1 amount will be authorized only upon the proper filing of this Reconciliation, with duties, taxes, fees, and interest. For a consolidated monthly liquidated damages claim covering five or more flagged entry summaries, the Option 1 amount is \$500. For consolidated monthly claims involving four or fewer flagged entry summaries, the Option 1 amount is \$100 per entry.

2. Reconciliation Money No File

Description: Reconciliation filed timely but without payment of additional duties, taxes, fees, and interest due.

Assessed Liquidated Damages Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of the Option 1 amount will be authorized only after all duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

3. Reconciliation Late File

Description: Reconciliation filed and paid after the 15-month deadline.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest, if applicable, due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

4. Reconciliation Money Late File

Description: Reconciliation filed timely but payment of additional duties, taxes, fees, and interest due submitted late.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

5. Reconciliation Late File with Money No File

Description: Reconciliation filed late, without payment of duties, taxes, fees, and interest due.

Assessed Amount: \$1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of Option 1 amount will be authorized only after duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is \$500. For claims involving four or fewer flagged entry summaries, the amount is \$100 per entry.

New Diskette Labeling Procedure

The **Federal Register** notice of February 6, 1998, announced that, along with the ABI-transmitted Header and Association File, importers must submit line item data in both hard copy and commercial spreadsheet format via diskette. All aspects of the test concerning line item spreadsheets remain the same. This document merely addresses the labeling of the diskettes.

Starting on the date this document is published in the **Federal Register**, importers, per the Bureau of the Census, must label diskettes with the following information: Reconciliation entry number, importer of record number (generally the IRS Tax Identification number), and the calendar year or years covered by the Reconciliation spreadsheet contained on that diskette. For example, regarding the latter bit of information pertaining to calendar year, if the Reconciliation covers a fiscal year's worth of entries that were entered from

October 1, 1999, through September 30, 2000, the diskette should be labeled “1999-2000,” along with the Reconciliation entry number and the IRS number.

Continued Use of Midpoint Interest Calculation for Aggregate Reconciliations

The use of a midpoint interest calculation method was authorized for Aggregate Reconciliations when the Miscellaneous Trade and Technical Corrections Act of 1999 was signed into law on June 25, 1999. The law included a sunset provision of October 1, 2000. Use of midpoint interest calculation under the test was announced in the July 21, 1999, **Federal Register** notice. On November 9, 2000, the Tariff Suspension and Trade Act of 2000 was signed into law (Pub. L. 106-476; the Act). Under section 1451 of the Act, section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)), as amended, was amended to remove the sunset provision. Therefore, importers may continue to use the midpoint interest calculation method for Aggregate Reconciliations. Procedures regarding the use of midpoint interest remain the same as described in the July 21, 1999 **Federal Register** notice.

The ACS Reconciliation Prototype Survey

A Reconciliation Prototype survey was published on the Customs web site in order to solicit comments and suggestions from various entities of the trade community (see also **Federal Register** (65 FR 36505) notice published on June 8, 2000. The number of responses to this voluntary survey was minimal in comparison to the volume of importers approved for Reconciliation. A summary

of the survey responses will be compiled and published on the Customs web site in the near future.

Date: January 31, 2001

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